

REMARKS

In the Office Action issued on August 20, 2007, the Examiner:

1. Acknowledged the filing of a valid Request for Continued Examination (RCE) and entered the after final amendment filed on April 30, 2007;
2. Objected to Claim 11 for an informality;
3. Rejected all pending claims under the judicially created doctrine of obviousness-type double patenting over Claims 1 through 33 of United States Patent No. 6,200,336, Claims 1 through 21 of United States Patent No. 6,508,833, and Claims 1 through 12 of United States Patent No. 6,974,474;
4. Provisionally rejected all pending claims under the doctrine of obviousness-type double patenting over Claims 1 through 16 of copending Application Serial No. 09/777,091, Claims 1, 7, and 14 through 25 of copending Application Serial No. 10/721,582, Claims 1 through 19 and 22 through 42 of copending Application Serial No. 10/910,490, Claims 1 through 20 of copending Application Serial No. 11/185,272, and Claims 1 through 29 of copending Application Serial No. 10/828,716;

5. Rejected Claims 8, 9, 11, 16, 18, 20 through 22, 27, 28, and 36 under 35 U.S.C. §102(b) as being anticipated by United States Patent No. 5,855,601 to Bessler ("Bessler");
6. Rejected Claims 8, 9, 11, 16 through 18, 20 through 22, 27, 28, and 36 under 35 U.S.C. §102(e) as being anticipated by United States Patent Application Publication No. 2003/0130726 to Thorpe ("Thorpe");
7. Rejected Claims 8, 9, 11, 16, 18, 20 through 22, 27, and 36 under 35 U.S.C. §102(e) as being anticipated by United States Patent Application Publication No. 2002/0138135 to Duerig ("Duerig"); and
8. Rejected Claim 17 under 35 U.S.C. §103(a) as being unpatentably obvious over Bessler in view of United States Patent No. 5,713,950 to Cox ("Cox").

The Applicants have fully considered the Office Action and cited references and submit this Reply and Amendment in response to the Examiner's objections and rejections. Reconsideration of the application for patent is requested.

Initial matter – attorney not of record acting in representative capacity

As an initial matter, please note that the undersigned attorney is not of record and is currently acting in a representative capacity pursuant to 37 C.F.R. §1.34 (See M.P.E.P. §405).

Rejection of claims for double patenting over issued United States patents.

The Examiner rejected all pending claims for obviousness-type double patenting over claims 1 through 33 of United States Patent No. 6,200,336, claims 1 through 21 of United States Patent No. 6,508,833, and claims 1 through 12 of United States Patent No. 6,974,474.

The claims under current consideration included independent Claims 8, 11, 20, 27, and 36. In consideration of other rejections raised in the subject Office action, the Applicants have herein amended independent Claims 8, 11, 20, 27, and 36. All remaining dependent claims depend from these amended independent claims. Thus, all claims currently under consideration have been amended.

Applicants respectfully assert that all remaining claims define subject matter that is patentably distinct from the subject matter defined by the listed claims of the cited patents. Accordingly, reconsideration of the double patenting rejection is requested.

Provisional rejection of claims for double patenting over copending applications

The Examiner rejected all pending claims for obviousness-type double patenting over Claims 1 through 16 of copending Application Serial No. 09/777,091, Claims 1, 7, and 14 through 25 of copending Application Serial No. 10/721,582, Claims 1 through 19 and 22 through 42 of copending Application

Serial No. 10/910,490, Claims 1 through 20 of copending Application Serial No. 11/185,272, and Claims 1 through 29 of copending Application Serial No. 10/828,716.

The claims under current consideration included independent Claims 8, 11, 20, 27, and 36. In consideration of other rejections raised in the subject Office action, the Applicants have herein amended independent Claims 8, 11, 20, 27, and 36. All remaining dependent claims depend from these amended independent claims. Thus, all claims currently under consideration have been amended.

Applicants respectfully assert that all remaining claims define subject matter that is patentably distinct from the subject matter defined by the listed claims of the cited copending applications. Accordingly, reconsideration of the provisional double patenting rejection is requested.

Objection to Claim 11 for informalities

The Applicants have amended Claim 11 to remove the typographical error noted by the Examiner. Specifically, the Applicants have amended Claim 11 to change “oif” in line 9 to “of.” This amendment is made solely to correct a typographical error and does not alter the scope of protection sought.

Rejection of claims under 35 U.S.C. §102(b)

The Examiner rejected Claims 8, 9, 11, 16, 18, 20 through 22, 27, 28, and 36 under 35 U.S.C. §102(b) as being anticipated by Bessler.

In the Office action, the Examiner asserts that “wave 61 and/or barbs 64 include a portion that traverses a portion (e.g., portion 63) of one of the two leaflets” (referencing Figure 7). The Applicants respectfully disagree with this interpretation of the reference. Portion 63 of the valve member of Bessler is a cuff portion, not a leaflet that moves to affect opening and closing of the valve.

Nevertheless, in order to more particularly point out and distinctly claim the invention, Applicants have herein amended all remaining independent Claims (specifically, Claims 8, 11, 20, 27, and 36). **Each of the independent claims under consideration now requires that a portion of the centering element traverse a proximal leaflet surface of one of the leaflets and that it be free of contact with the this leaflet surface.**

These amendments to the claims are fully supported by the specification and do not introduce new matter into the application. Exemplary support is found in Figure 84, which clearly shows centering elements 164,165 that traverse the proximal leaflet surfaces of leaflets 127,128 and that are free of contact with the traversed leaflet surfaces.

Bessler also fails to disclose this limitation and cannot, therefore, properly serve as an anticipatory reference of any remaining claim. As best illustrated

in Figure 7, the “wave 61 and/or barbs 64” do not satisfy this limitation.

Removal of this rejection is requested.

Rejection of claims under 35 U.S.C. §102(e) - Thorpe

The Examiner rejected Claims 8, 9, 11, 16 through 18, 20 through 22, 27, 28, and 36 under 35 U.S.C. §102(e) as being anticipated by Thorpe.

Applicants have herein amended all remaining independent Claims (specifically, Claims 8, 11, 20, 27, and 36). Each of the independent claims under consideration requires that a portion of the centering element traverse a proximal leaflet surface of one of the leaflets and that it be *free of contact with the this leaflet surface.*

Each of the interpretations proposed by the Examiner fail to meet these limitations – none result in a centering element that traverses a proximal leaflet surface and that is free of the surface. Thorpe does not, therefore, disclose this limitation and cannot, therefore, properly serve as an anticipatory reference of any remaining claim.

Rejection of claims under 35 U.S.C. §102(e) - Duerig

The Examiner rejected Claims 8, 9, 11, 16, 18, 20 through 22, 27, and 36 under 35 U.S.C. §102(e) as being anticipated by Duerig.

Applicants have herein amended all remaining independent Claims (specifically, Claims 8, 11, 20, 27, and 36). Each of the independent claims under consideration requires that a portion of the centering element traverse

a proximal leaflet surface of one of the leaflets and that it be *free of contact with the this leaflet surface.*

Each of the interpretations proposed by the Examiner fail to meet these limitations – none result in a centering element that traverses a proximal leaflet surface *and that is free of contact with the surface.* Duerig does not, therefore, disclose this limitation and cannot, therefore, properly serve as an anticipatory reference of any remaining claim.

Rejection of claims under 35 U.S.C. §103(a)

The Examiner rejected Claim 17 under 35 U.S.C. §103(a) as being unpatentably obvious over the combination of Bessler and Cox. Claim 17 depends from independent Claim 11, which requires that “the one or more centering elements including a portion that traverses and is free of contact with the proximal leaflet surface of one of the plurality of leaflets.”

As described above, Bessler fails to disclose this limitation. Cox does not cure this defect of Bessler. Accordingly, the combination of Bessler and Cox fails to establish a *prima facie* case of obviousness, which requires the existence of some suggestion or motivation to combine the references, a reasonable expectation of success, and *disclosure of each and every element and limitation of the claim under consideration.*

CONCLUSION

The Applicants have fully responded to the objections and rejections listed

by the Examiner in the August 20, 2007, Office Action. The Applicants respectfully assert that all claims currently under consideration define patentable subject matter and that a Notice of Allowability is appropriate.

Should the Examiner have any questions regarding this Reply and Amendment, or the remarks contained herein, the undersigned attorney would welcome the opportunity to discuss such matters with the Examiner.

Respectfully submitted,



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